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COMPETITIVE TIED AID FUND ACT

DECEMBER 20 (legislative day, DECEMBER 19), 1985.—Ordered to be printed

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Mr. ST GERMAIN, from the Committee on Banking, Finance and Urban Affairs, submitted the following

REPORT

ORIGINAL

together with additional and separate views

[To accompany H.R. 3667]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking, Finance and Urban Affairs, to whom was referred the bill (H.R. 3667) to eliminate unfair and predacious export financing practices, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Competitive Tied Aid Fund Act".

SEC. 2. COMPETITIVE TIED AID FUND.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 15. COMPETITIVE TIED AID FUND.

"(a) FINDINGS.—The Congress hereby finds that—

"(1) tied and partially untied aid credits offered by other countries are being used in a predacious manner to distort competitive markets and undercut American exporters;

"(2) the predacious use of tied and partially untied aid credits undermines export credit discipline under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development; and

"(3) the establishment of a temporary Competitive Tied Aid Fund in the Treasury of the United States to target the export markets of countries which exploit or abuse tied or partially untied aid credits for commercial purposes and which impede progress in negotiating greater discipline over the use of such credits will facilitate negotiations to eliminate the use of such credits for com-

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mercial purposes and will thereby help protect American exporters from unfair and predacious official export competition.

"(b) COMPETITIVE TIED AID FUND.—

"(1) ESTABLISHMENT BY SECRETARY OF THE TREASURY.—In order to provide a means for inducing other countries to pursue negotiations on a comprehensive arrangement to restrict the use of tied aid and partially untied aid credits for commercial purposes, the Secretary of the Treasury shall establish a fund in the Treasury of the United States to be known as the 'Competitive Tied Aid Fund', consisting of such amounts as may be appropriated to the Fund.

"(2) EXPENDITURES FROM FUND.—Amounts in the Fund may be used to supplement the financing of United States exports to foreign markets which are actual or potential export markets for any country which—

"(A) engages in predacious official export financing through the use of tied or partially untied aid credits; and

"(B) impedes negotiations to eliminate the use of such credits for commercial purposes.

"(3) ADDITIONAL REQUIREMENTS.—In carrying out this section, the Secretary—

"(A) should avoid using the total amount in the Fund to provide financing for only 1 or 2 export projects;

"(B) should seek to use amounts in the Fund to make financing available only for United States exports that would be reasonably competitive in the absence of the predatory export financing practices of the other country; and

"(C) shall ensure that amounts in the Fund are used only to assist exportation by persons described in paragraph (1), (2), or (3) of section 238(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2198(c)).

"(4) CONSULTATION WITH ADVISORY COUNCIL.—The Secretary shall consult with the National Advisory Council on International Monetary and Financial Policies in—

"(A) determining the foreign countries which offer predacious tied or partially untied aid credits and which impede negotiations to restrict their use to legitimate foreign aid; and

"(B) reviewing proposed transactions under this section.

"(5) POLICY AND PROCEDURE GUIDELINES.—The Secretary shall establish policy and procedure guidelines for the development and implementation of the Fund. In establishing such guidelines, the Secretary shall—

"(A) devise a method for determining the number of American jobs which will be created or retained through assistance from the Fund, and give such factor consideration in making assistance available; and

"(B) describe the method of publicizing the availability of assistance from the Fund, and the terms and conditions under which such assistance is available to both large and small exporters.

"(c) DEFINITIONS.—For purposes of this section—

"(1) TIED AID AND PARTIALLY UNTIED AID CREDIT.—The terms 'tied aid credit' and 'partially untied aid credit' mean any official credit which has a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development, and which is, in fact or in effect, tied to—

"(A) the procurement of goods or services from the donor country, in the case of tied aid credit; or

"(B) the procurement of goods or services from a restricted number of countries, in the case of partially untied aid credit.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(3) FUND.—The term 'Fund' means the Competitive Tied Aid Fund established pursuant to subsection (b)(1).

"(d) REPORT TO CONGRESS.—The Secretary shall transmit to the Congress, on a quarterly basis, a report setting forth the activities carried out under this section. Each such report shall include—

"(1) information on applications used by the Secretary for making assistance available under subsection (b)(2);

"(2) information on the disposition of such applications;

"(3) an identification of the foreign governments whose behavior the Secretary is trying to influence by the use of such assistance, and an explanation of why the assistance involved is deemed likely to influence that behavior;

"(4) evidence that clearly demonstrates that assistance under subsection (b)(2) has been used for the purposes of this section;

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"(5) information on any progress that has been made in negotiations on agreements within the Organization for Economic Cooperation and Development to limit the use of tied aid credits and partially untied aid credits;

"(6) information on the extent to which tied aid credits and partially untied aid credits are being used at the time of such report by major trading countries within such Organization, the terms of such any credits, and the market sectors with respect to which such credits are being used; and

"(7) information on the extent to which assistance under this section has been effective—

"(A) in discouraging the use of tied aid credits and partially untied aid credits for commercial purposes by other countries; and

"(B) in helping to protect United States exporters from unfair and predication official export competition.

"(E) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is hereby authorized to be appropriated to the Fund for the fiscal year beginning on October 1, 1986, $300,000,000. Except as provided in paragraph (2), such sums shall remain available until expended.

"(2) RESCISSION AUTHORITY.—

"(A) DETERMINATION BY PRESIDENT.—If the President determines that any amount appropriated to the Fund is not required to achieve the purpose of the Fund, the President shall transmit a special message of such determination to the Congress in the manner provided in section 1012(a) of the Impoundment Control Act of 1974.

"(B) SPECIAL MESSAGE.—Any message under this paragraph shall be treated as a special message under such section for purposes of such Act.

"(f) EXPORT-IMPORT BANK.—

"(1) IMMEDIATE IMPLEMENTATION.—Until such time as the funds authorized to be appropriated under subsection (e) become available for expenditure, the Bank shall make aggressive use of the Bank's authority to offer tied aid credits, in accordance with any recommendation of the Secretary of the Treasury as to how such credits could most effectively and efficiently promote the purposes of this section.

"(2) SUBSEQUENT REIMBURSEMENT.—The Bank shall be reimbursed for the cost of any tied aid credits the Bank authorizes pursuant to this subsection from the appropriated funds authorized by this section, when such funds become available.".

INTRODUCTION TO H.R. 3667

H.R. 3667 authorizes the appropriation of $300 million to a "Competitive Tied Aid Fund" established within the Department of the Treasury, under the authority of the Secretary of the Treasury. It may be used by the Secretary to make grants to supplement the financing of American exports by the Export-Import Bank or by private financial institutions. The resulting financial package—the loan plus the grant—would be a form of "tied aid credit", or, as it is more colloquially known, a "mixed credit".

TIED AID CREDIT

What is "tied aid credit", and why should the U.S. Government be offering it?

Official export credits offered by governments to finance their countries' exports are governed by an informal international agreement, the "Arrangement on Guidelines for Officially Supported Export Credits", among members of the Organization for Economic Cooperation and Development (OECD). The OECD Arrangement sets the basic terms on which governments may finance exports. it stipulates, for instance, minimum interest rates and maximum maturities. These interest rates vary according to the category of country receiving the loan: rates are highest on loans to category I countries, the richest, and lowest on category III countries, the

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poorest. In December 1985, for example, the Export-Import Bank could finance American exports, in accordance with this Arrangement, by offering ten year loans at 9.85 percent to a category III country, such as Indonesia. These minimum interest rates are adjusted semiannually, in line with movements in market rates.

The OECD Arrangement has undergone considerable revision over the past few years. The Department of the Treasury, which leads the U.S. delegation in negotiations on the Arrangement, has long attempted to negotiate improvements in the Arrangement so as to minimize the degree of subsidy contained in official export credits. A major step toward that goal was taken in 1983, when Arrangement members agreed to move interest rates on official export credit much closer to market rates. Since then, conventional official export finance contains only modest subsidies.

Despite this major improvement in the Arrangement, one glaring loophole, pertaining to tied aid credit, persists. Tied aid credit is official export credit whose terms are more generous than permitted by the Arrangement for conventional credit. A ten year loan at 9.85% offered, in December 1985, to Indonesia would be conventional financing on Arrangement terms. A loan to Indonesia at 6 percent for thirty years would be tied aid credit.

Tied aid credit is deemed to contain a "grant element", which roughly measures the portion of the loan that is being given away. A loan on Arrangement terms is deemed to have a zero grant element. A "loan" with a one hundred percent grant element would not be a loan at all, since the total amount would be a grant. A loan with a grant element between zero and one hundred percent is tied aid credit.

Given the terms of the loan, the precise grant element in any tied aid credit is determined by a method developed by the OECD. For example, a 30 year loan with semiannual repayments, a half year grace period, and a 6% rate of interest would carry a grant element of 26.13%, whereas the same loan at 2% would carry a grant element of 53.92%.

Since the Arrangement stipulates minimum interest rates and maximum maturities, and tied aid credit is credit on terms more concessionary than Arrangement terms, does not the Arrangement ban all tied aid credit? No. The minimum interest rates and maximum maturities are not, strictly speaking, real minima and maxima. Rather, they serve to define a conventional or normal loan on Arrangement terms, a loan, that is, with zero grant element. More concessionary loans are then defined as tied aid credit, with a positive grant element.

The Arrangement does not ban all tied aid credit. It permits ties aid credit with a grant element of 25 percent or more. It bans only tied aid credit with a positive grant element up to 25 percent. This loophole means that, strictly speaking, a loan with a grant element between zero and 25 percent is the only type of loan not permitted under the Arrangement.

Tied aid credit can be regarded as legitimate foreign aid, if it is used for genuine development projects and its grant element is sufficiently large. Unfortunately, these are not precise, objective criteria. Determining how large the grant element should be, or which

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projects should qualify as "developmental", requires considerable subjective judgment.

Neither the Committee nor the Administration seeks to eliminate tied aid credit that is, beyond all reasonable doubt, genuine foreign aid. Indeed, the U.S. government already grants large amounts of legitimate tied aid credit. Roughly three-quarters of the foreign economic assistance granted by the Agency for International Development is tied to the purchase of American goods and services, and a significant portion of that is in the form of highly concessionary loans, that is, in the form of tied aid credit with large grant elements.

The problem arises when mixed credits are exploited and abused for commercial purposes, when they are offered to win export orders that should be financed on commerical terms. American exporters cannot compete with foreign exporters for sales into a third market when the foreign exporters offer tied aid credit, and the American exporters must rely on conventional credit from the Eximbank, or on private financing. A tied aid credit offer with a grant element of 25% is so financially atttractive, compared to an Eximbank loan with a zero percent grant element, that the foreign exporter offering tied aid credit would win the offer in all but the most exceptional circumstances. Realizing the huge competitive advantage they can gain by offering mixed credits, governments are tempted to offer them primarily to win big foreign contracts for their own exporters, and only secondarily, or not at all, to promote economic development through legitimate foreign aid.

In practice, how extensive is the exploitation of the mixed credits loophole? According to Administration testimony, reported tied aid credit offers with grant elements under 50 percent have doubled since 1982. The OECD predicts that mixed credits will rise to over $6 billion in 1985. Since the beginning of 1984, the OECD has received notification of over 600 mixed credit offers, with a total value of over $10 billion. (Not all these offers would be won, and not all would constitute an abuse of tied aid credit. Some could be legitimate foreign aid.) In testimony before the Subcommittee on International Finance, the Coalition for Employment Through Exports (CEE) reported the findings of a survey of its member companies:

> Mixed credits was a very important competitive issue for 75% of the respondents.
>
> More than one-half of all respondents did not even try to get official support to meet a foreign mixed credit offers. U.S. programs were perceived either as unavailable or uncompetitive.
>
> More than 90% of the companies not requesting U.S. assistance tried to supply goods from overseas where competitive mixed credit support was available.
>
> During a 20-month period CEE companies tried to get foreign mixed credit support for 28 separate overseas projects involving approximately $7 billion.

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TIED AID CREDIT NEGOTIATIONS

What should be done about the growing use, and abuse, of mixed credits by foreign governments? For some time the U.S. government, led by the Department of the Treasury, has been trying to negotiate a tightening of discipline over tied aid credit, not to eliminate the practice entirely, but to minimize the scope for its commercial exploitation. How could this be done? In the words of Treasury testimony:

> The clearest, simplest, and most direct solution to the problem of commercially motivated tied aid credits is to raise the minimum permissible grant element from the current 25 percent to 50 percent, a proposal presented by the United States to the OECD Export Credits Group in December 1983. While it would not completely eliminate the problem, it would make the cost of such credits so high that no country's aid budget could sustain such a diversion from real economic development assistance.

If all tied aid credit carried a grant element in excess of 50 percent, the Administration would, as a practical matter, be willing to assume that it represented legitimate foreign aid. As such, it would no longer be a point of contention. Though some mixed credits with grant elements greater than 50 percent might still be so costly that we could assume it would be used almost solely as genuine foreign aid. As the Chairman of the Export-Import Bank said, in testimony before the International Finance Subcommittee,

> The mixing of these two (conventional export credit and foreign aid) is what we are trying to eliminate and if the mix is more than 50 percent aid, we feel, well, that is all right. Then let it go. Let's not worry about it.

But we must worry about a mixing that produces tied aid credit in the 25–50 percent range. At present foreign governments can, and do, offer tied aid credits with grant elements at or close to 25 percent, in perfect conformity with the Arrangement, solely to win commercial markets for their own exporters. While a 25 percent grant element is quite costly, it is apparently not costly enough to deter our mercantilist foreign competitors from offering it. But a 25 percent grant element is high enough to secure a virtually unsurmountable competitive advantage for the country offering it.

The United States has three options: (1) to negotiate a large increase in this threshold (or some equivalent form of discipline); (2) to enter the fray by offering equivalent financing to protect our exporters; or (3) to accept the loss of many markets in which American exporters, on the basis of price and quality, would be highly competitive.

THE ADMINISTRATION'S WAR CHEST REQUEST

According to Treasury testimony, negotiations to impose greater discipline over tied aid credits had, by the autumn of 1985, reached an impasse:

> While most industrialized countries are prepared to accept greater discipline over tied aid credits, a few coun-

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> tries, notably France, supported by Italy, are now blocking negotiating progress. At the September 16–20 meeting of the OECD we were unable to make progress primarily because the European Community . . . had no flexibility to increase the minimum grant element or to explore alternative solutions.
>
> We need a new initiative to break this logjam.

The new initiative, announced by the President, was to request a $300 million "war chest" with which to combat the unfair and predatory use of tied aid credits by our foreign competitors. This war chest, as requested by the Administration, would be under the sole control of the Secretary of the Treasury; would be used in an aggressive and preemptive manner, targeted to take markets away from those countries which exploit and abuse tied aid credit and impede progress toward negotiating greater discipline over such credits; would expire when the President declared it was no longer needed for negotiating purposes; and would, in any event, sunset on September 30, 1987. Funds for the war chest were to be authorized for appropriation in fiscal year 1986, and, once appropriated, to be available without fiscal year limitation.

WAR CHEST HEARINGS

The Administration's legislative request was introduced as H.R. 3515 and referred to the Committee on Banking, Finance and Urban Affairs. Within the Banking Committee, it was referred to the Subcommittee on International Finance, Trade and Monetary Policy. Hearings on H.R. 3515 and on two related mixed credits bills, H.R. 1857 and H.R. 3296, were held through October, November and December. Witnesses at these hearings included:

Oct. 16: The Hon. Stan Lundine; the Hon. Nancy L. Johnson; the Hon. Chalmers Wylie; the Hon. William Draper, Chairman of the Export-Import Bank; and Mr. Robert Cornell, Deputy Assistant Secretary of the Treasury for International Trade and Investment Policy.

Oct. 23: The Hon. Don Bonker; Mr. Willard Berry, Coalition for Employment through Exports; Mr. Warren Hollinshead, National Foreign Trade Council; Prof. Rachel McCulloch, University of Wisconsin and Member of the President's Commission on Industrial Competitiveness; Mr. Stephen Sohn, Chamber of Commerce.

Nov. 6: The Hon. William Draper, Chairman of the Export-Import Bank.

Dec. 3: The Hon. David Mulford, Assistant Secretary of the Treasury for International Affairs.

The Chairman of the Subcommittee, Mr. Neal, introduced his version of tied aid credit legislation, H.R. 3667, which was favorably reported by the Subcommittee, with amendments, by a 19–0 vote on Nov. 7, 1985. On Dec. 4, the full Committee recommitted the bill to the Subcommittee, with instructions to clarify the budgetary impact of the bill. The Subcommittee again reported the bill favorably, on Dec. 10, by voice vote, after adopting an amendment to authorize the appropriation of the $300 million for fiscal year 1987. On Dec. 12, the full Committee favorably reported the bill, with amendments, by voice vote.

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COMPETITIVE TIED AID FUND

The bill reported by the Committee, H.R. 3667, establishes a war chest, called the "Competitive Tied Aid Fund", very similar to the one requested by the Administration. It would remain under the sole control of the Secretary of the Treasury, and would be used in an aggressive and preemptive manner. No sunset provision was established, since the Committee felt a definite termination date for the war chest might induce our negotiating partners to sit tight and wait for it to expire. And no unilateral authority was granted the President to impound appropriated funds. Instead, the President could, if he felt the war chest was no longer needed, transmit to the Congress a normal recision request. Even without such a recision, funds appropriated to the Competitive Tied Aid Fund need not be spent if no longer needed, since the Secretary of the Treasury would exercise complete control over expenditures from the Fund, and could simply refuse to authorize expenditures beyond the amount he deemed necessary to achieve the purposes of the Fund. The Committee authorized appropriations for fiscal year 1987, rather than fiscal year 1986, and provided that the funds, once appropriated, would be available without fiscal year limitation.

Debate on the war chest crystallized around two issues: how it should be used, and who should control it. Criteria for use of the Competitive Tied Aid Fund are similar to those requested by the Administration. In the language of H.R. 3667, expenditures from the Fund "may be used to supplement the financing of United States exports to foreign markets which are actual or potential export markets for any country which—

(A) engages in predacious official export financing through the use of tied or partially untied aid credits, and

(B) impedes negotiations to eliminate the use of such credits for commercial purposes."

These criteria characterize an aggressive, offensive use of the Fund, as opposed to a matching, or defensive use. This distinction was emphasized by the Administration. Mr. Robert A. Cornell, the Treasury's Deputy Assistant Secretary for International Trade and Investment Policy, testified that the war chest "should be aggressive and preemptive, not to mention predatory; not a program merely matching tied aid credits. Matching others offers does not work. If we do only that, we will perpetuate rather than eliminate the practice; we will throw good money after bad." And he stated further that "it is my personal view based on five years watching the business, being in the negotiations, that matching mixed credits does not work. . . . I am opposed to a matching program because I don't think it will help us one little bit in the negotiations."

A defensive or matching program would passively respond to tied aid credit offers initiated by others. It would more or less match those offers, with the objective of maintaining the competitive position of American exporters facing such offers. It would be difficult to control the cost or scope of such a program, since the initiative would be in the hands of others, The Eximbank, or whoever administered such a defensive program, would fall under intense pressure to administer it evenhandedly, affording all American exporters

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more or less the same degree of protection against mixed credits initiated by others. The uncontrollable cost of defensive matching, coupled with Treasury testimony that it would have little impact on the negotiations, induced the Committee to adopt the purely "offensive" approach requested by the Administration.

Under an offensive program, the funds would be selectively targeted, their use punitive and predacious. Foreign governments that unfairly use mixed credits to undercut American exporters and that impede progress in negotiating greater discipline over such credits would be identified by the Secretary of the Treasury. Export markets, actual or potential, of those countries would be attacked. On a selective basis, solely at the discretion of the Secretary, U.S. exports to those markets would be financed, in part, by grants from the Fund. The grants would normally be blended with conventional export financing from the Export-Import Bank (and possibly, in exceptional circumstances, with private export financing). The resulting financial package would be a tied aid credit with a grant element of 25 percent or more.

There is absolutely no presumption that these credits should only match offers by other countries, or that they be used only for projects that are truly "developmental." The grants can be initiated by the Secretary for projects for which no other mixed credits are being offered; they can be used to "overmatch" in cases where other countries have made such offers; and they can be used for "nondevelopmental" projects in countries not normally recipients of foreign aid. The criterion for targeting these funds will be to capture markets, for American exporters, that would normally have been served by countries that engage in the predacious abuse of tied aid credits for the enrichment of their own exporters and that block negotiations to impose greater restraint over this vile practice, or, failing the capture such markets, to make it prohibitively expensive for such countries to retain them. The purpose of this aggressive attack will be to influence the negotiating posture of the country or countries in question by imposing on their exporters or on their export finance budgets the maximum possible damage we can inflict with a $300 million dollar war chest. In the words of the Treasury's Deputy Assistant Secretary, "If this program works in a way that we intend it to work, we will really wreak havoc on those countries we intend to target." Treasury pinpoints the targeted countries as being, first and foremost, France, and secondarily, Italy.

How much havoc could this war chest wreak? $300 million may, at first glace, appear modest. But the $300 will cover the grant element of any financing. The remainder would normally consist of conventional Eximbank financing. A tied aid credit with 30 percent grant element would be a total financial package 30 percent of which would be a grant from the Fund, and 70 percent a normal Eximbank loan. Thus, if tied aid credits supported by the war chest carried, on average, a 30 percent grant element, the $300 million would be blended with $700 million from the Bank, to finance $1 billion in export value. In fact, offers to finance exports could potentially rise to $2 or $3 billion, since not all offers would be converted into actual loans. (American exporters will not win all the deals for which they make bids, and some transactions typically

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are cancelled for other reasons.) Confronting the exporters of the one or two targeted countries with tied aid credit offers up to $3 billion, carefully selected to cause them maximum grief, could be potent ammunition. The Administration regards it as sufficient.

The primary purpose of this war chest will not be to protect American exporters as such, or to promote American exports, through those objectives would be served in the long run if agressive use of the Fund leads to successfully negotiated restraints over mixed credits. The particular American exports selected for support by grants from the Fund would obviously benefit, but such benefit would be the by-product, not the purpose of such grants.

An amendment adopted by the Committee alludes to the beneficial impact these grants might have on American jobs. It requires the Secretary to devise a method for determining the number of American jobs created or retained through assistance from the Fund, and "give such factor consideration in making awards." This language makes clear the subordination of job creation or retention to the primary purpose of the Fund. No grant from the Fund which, in the Secretary's judgment, failed to serve that purpose, could be justified by its impact on employment. If, on the other hand, choices must be made among candidates for grants from this Fund, and all such choices would, in the Secretary's judgment, more or less equally serve the purpose of the Fund, then the Secretary should, in making his choices, give consideration to their potential impact on employment.

The administrator of this Fund will have unprecedented scope todiscriminate in his selection of exports to be supported by the Fund. He will be required to discriminate for a political purpose—to influence the negotiating policies of foreign governments—and to ignore the pleas and pressures of American exporters for evenhanded protection against mixed credit competition, or for support of American exports as such. There will be no procedure for applying for these grants, no process through which an applicant could plead his case. The Secretary would normally award them, on his own initiative, by choosing from applications for conventional export finance pending at the Eximbank.

The highly discriminatory nature of this Fund is the most important factor influencing the choice of its administrator. At first glance, it would seem normal to lodge the fund in the Eximbank itself, under the direction of the Bank's Board. But the Bank is not the proper body to administer such a highly discriminatory fund, and especially not one designed to launch predacious attacks on the export markets of foreign governments in order to influence their negotiating positions. The Eximbank has a long and well deserved reputation for offering conventional export finance on a nondiscriminatory basis, that is, solely on commercial and financial criteria, within its budget constraints. The Committee agreed with the Administration that the proper administrator of the Competitive Tied Aid Fund would be the Secretary of the Treasury, precisely because he has no operational responsibility for conventional export finance, so has no need to maintain credibility as an evenhanded, nondiscriminatory administrator of governmental export promotion programs. He is, moreover, in charge of U.S. negotiations on export credit issues, including tied aid credits, and is thus

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best placed to decide when and how to use this war chest, to promote American objectives in those negotiations.

An equally important factor in choosing to lodge undiluted control over this Fund in the hands of the Secretary of the Treasury was the desire of the Committee to establish one center of unambiguous responsibility for its use. Pressures and temptations to use this Fund for purposes wider and broader than the one laid down in this bill—to influence negotiations—will inevitably be brought to bear on its administrator. The Committee insists that those temptations and pressures be resisted. The Committee intends to exercise unrelenting scrutiny and oversight of the use of this Fund to ensure that they are resisted, and to assess the effectiveness with which the Secretary uses the Fund to achieve its purpose. To aid the Committee in this oversight, extensive reporting requirements, pertaining to each use of the Fund, are laid down in the bill.

The Committee concluded that it was essential that a single official of the government be responsible and accountable for the use of this Fund, and that that official be the one most able, by virtue of his position and duties within the Administration, to direct its use most efficiently and effectively to achieve its purpose. Control of this Fund should not be spread over some collegial body, such as the National Advisory Council on International Monetary and Financial Policies (the NAC), or even over the Board of the Eximbank. Both the NAC and the Bank are free to, and are encouraged to, offer advice and recommendations to the Secretary of the Treasury, but control and responsibility, pure and pristine, must be his alone.

TREASURY AND EXIMBANK PROCEDURES

The Committee was willing to establish the Competitive Tied Aid Fund in the Department of the Treasury in part because the Treasury assured the Committee that administering this Fund will require no new staff, no new officials, no bureaucratic expansion. The Treasury will rely on the Eximbank to process all export credit applications, under the Bank's present procedures. The Bank will carry out all credit and project evaluations on those applications. The sole role of the Treasury will be to select, from the Bank's pending applications for conventional export finance, those which would serve the purposes of the Fund. At the discretion and under the sole authority of the Secretary of the Treasury, grants from the Fund may be blended with Eximbank conventional financing for those applications selected by the Secretary. The Eximbank portion would be a conventional export credit, in conformity with the Arrangement, carrying all the terms, conditions and fees the Bank normally attaches to its conventional loans.

FISCAL YEAR 1987

The Administration submitted its "war chest" legislation in September 1985, after Congress had adopted the Budget Resolution for fiscal year 1986. It was unclear to many Committee members how the appropriation of funds for the Competitive Tied Aid Fund would be accommodated under a Budget Resolution that, when en-

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acted, made no allowance for such an appropriation. Consequently, the Committee amended the bill to authorize appropriations for fiscal year 1987. The Administration accepted this change.

TIED AID CREDITS AND THE EXPORT-IMPORT BANK

The need for new appropriations for a program of tied aid credits was closely examined by the Committee, in light of the fact that the Export-Import Bank can extend tied aid credits on its own, under existing authority. That being the case, why would new appropriations be in order? Clarification of this issue requires a little review of the recent history of tied aid credits and the Eximbank.

Under the Export-Import Bank Act, the Bank's Board sets the terms, including maturity and rate of interest, on which it extends credit. Nothing precludes it from setting terms so concessionary—low rates and long maturities—that the loan becomes a tied aid credit. The authority to extend tied aid credit is thus inherent in the Board's authority to determine rates of interest and maturities, and is not dependent on any explicit grant of such authority.

The Congress nonetheless established, in the "Trade and Development Enhancement Act of 1983", a program of tied aid credit in the Export-Import Bank. The language in this Act was largely hortatory, urging the Bank to make more aggressive use of its authority to extend tied aid credit. No funds were appropriated for this purpose.

Without a specific appropriation to cover tied aid credits, the amount of any tied aid credit offered by the Bank would come out of its direct loan budget. The Bank would inevitably lose money on tied aid credit, since such credit is, by definition, highly concessionary, carrying rates well below the Bank's own cost of funds. Those losses would reduce the Bank's capital.

The inevitability of sustaining heavy losses on tied aid credit, and thereby suffering an erosion of its capital, no doubt deterred the Bank from responding vigorously to the hortatory language of the Trade and Development Enhancement Act of 1983. The Act was not entirely ignored. According to testimony by Chairman of the Eximbank, "we have reviewed 30 cases where the American exporter faced confirmed mixed credit competition. The total value of all these projects came to $1.1 billion. We actually matched or met that competition with a total use of about $400 million in the 11 or 12 cases I mentioned. Eximbank countered and the U.S. suppliers have won three of these contracts and four are still undecided."

But this effort was modest, compared to the growing use of tied aid credits by our competitors. For most of this period, the Administration attempted to negotiate an end to the abuse of mixed credits without launching an aggressive attack of its own.

The Administration signaled a major shift in policy on mixed credits with the President's request for an appropriated war chest. The request for appropriations was justified by three arguments:

(1) Appropriations were required to protect Eximbank's capital. That capital was already being rapidly depleted by losses the Bank was incurring on its conventional loans. It should not be further depleted by having the Bank itself, without appropriated funds, extend mixed credits on a large scale. If Congress agrees with the

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Administration's new strategy to gain negotiating leverage through an aggressive tied aid credit program, it should also agree to recognize and pay for the inevitable cost of such a program. It should not try to ignore that cost by requiring or permitting it to be taken out of the Bank's capital.

(2) Only an appropriation of funds would convince our competitors that we were serious about fighting fire with fire. Otherwise, if tied aid credit had to come out of the Bank's regular loan budget, and the losses scored against its capital, the Bank would soon lose any initial enthusiasm it might generate for the effort, and would soon enough become more concerned about its eroding capital than about progress in negotiations, which, in any event, are primarily the responsibility of the Treasury. Our competitors would, under those circumstances, likely try to wait us out, rather than proceed with fruitful negotiations. Even if the Bank did, on its own, sustain a commitment to an aggressive program of tied aid credits, it would take some time to make that commitment credible. Negotiations, even if ultimately successful, could be delayed for some considerable time.

(3) Appropriating new funds would increase the government's capacity to support exports with official finance. If the Eximbank had a $1 billion annual loan budget, it could, in principle, offer $1 billion in tied aid credit. If a $300 million war chest were also available, that $300 million could be blended with $700 in Exim conventional loans to generate the same $1 billion in tied aid credits, and leave the Bank with an extra $300 million for conventional loans.

The Committee agreed that an appropriation would be the proper way to fund an aggressive tied aid credits program, though, as noted above, it authorized the appropriation for fiscal year 1987. What should transpire in the interim?

The Committee adopted an amendment stipulating that, until funds appropriated to the war chest become available, "the Bank shall make aggressive use of the Bank's authority to offer tied aid credits, in accordance with any recommendation of the Secretary of the Treasury as to how such credits could most effectively and efficiently promote the purposes of this section." In other words, the Committee intends for the gap to be filled by the Bank drawing on its existing authority to offer tied aid credits, and intends for the Bank to follow the Treasury's recommendations in selecting exports to be financed by such credits.

This practice would constitute a continuation of the more aggressive Eximbank mixed credits policies already announced and implemented by the Bank, in the wake of the Administration's war chest proposal. On Oct. 23, 1985 the Bank, anxious to bring immediate pressure on our competitors, announced the offer of tied aid credits to finance six potential transactions, totalling over a quarter of a billion dollars in exports.

A survey of these offers indicates the kinds of exports and export markets that would most likely be targeted by the Competitive Tied Aid Fund. These offers include export financing for: (1) rail cars and equipment for the Algiers metro, in competition with a French company, initiated with a grant element of 25%; (2) airport equipment for a Tunisian airport, in competition with several companies from France and Italy, initiated with a grant element of

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35%; (3) computer systems for India, in competition with French and Italian companies, matching a French mixed credit offer; (4) gas turbines for India, in competition with a French company, overmatching a French mixed credit offer by offering a 32% grant element; (5) airport navigation equipment for Brazil, in competition with a French company, initiated with a 25% grant element; and (6) locomotives for the Malayan railway, in competition with French, Japanese and British companies, overmatching a French mixed credit offer by offering a 35% grant element.

The Bank indicated that, if any of these offers are converted into actual loans after funds appropriated to the war chest become available, those funds would be used to cover the grant elements in these loans, thereby protecting the Bank's capital. But if they must be converted prior to the availability of such funds, the Bank will nonetheless convert them, on its own authority, and accept whatever depletion of its capital ensues therefrom. The Committee, by adopting this amendment, is doing nothing more than requiring the Bank to continue that practice.

The Committee is, nonetheless, cognizant of the potential impact of this practice on the Bank's capital. In the second part of the amendment adopted, the Committee provided that the Bank "shall be reimbursed for the cost of any tied aid credits the Bank authorizes pursuant to this subsection from the appropriated funds authorized by this section, when such funds become available." The "cost" of any such tied aid credit is the amount of the grant from the Competitive Tied Aid Fund that would have been blended with a conventional Eximbank loan to create an equivalent tied aid credit, had funds been available for that purpose at the time the Bank authorized the credit.

Though the Committee intends for the Bank to be reimbursed in accordance with the amendment described above, it recognizes that depletion of the Bank's capital, for whatever reason, need have no practical impact on the Bank's financial operations. Even if that capital were totally depleted the Bank could continue to operate unimpeded. The Bank enjoys unlimited authority to borrow from the Federal Financing Bank to fund its operations, without regard to its level of capital, or lack thereof.

A decision to offer tied aid credits is a decision to spend money, since the grant element in any such credit represents a real cost to the government that will never be recouped. Appropriating funds to cover that cost is the straightforward, transparent way to acknowledge and account for that cost. Paying for tied aid credits by depleting the Bank's capital is an opaque, roundabout way to cover that cost. But the cost is exactly the same either way. On strictly economic grounds, there is no reason to prefer one method over the other.

By authorizing appropriations the Committee stresses its preference for the straightforward, transparent approach to covering the costs of tied aid credit. But it also notes that, if it is worth incurring those costs to attain the goals of an aggressive tied aid credit program, it is worth incurring them either way—through appropriations or through a depletion of the Bank's capital—since the cost is the same, and since capital depletion has no direct effect on the Bank's financial operations.

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SECTION-BY-SECTION SUMMARY AND DESCRIPTION OF THE LEGISLATION AS REPORTED

Section 1. Title of the bill—"Competitive Tied Aid Fund Act."

Section 2. Adds a new section to the Export-Import Bank Act:

SEC. 15. COMPETITIVE TIED AID FUND.

(a) General findings concerning the use and adverse impact of tied and partially untied aid credits offered by other countries. Finds that the establishment of a Competitive Tied Aid Fund will facilitate negotiations to eliminate the exploitation of tied aid credit for commercial purposes and protect American exporters facing such unfair and predacious competition.

(b) The Competitive Tied Aid Fund will be established in the Department of the Treasury. It will be used to make grants to supplement conventional export credit. The primary purpose of this Fund will be offensive and targeted against countries that abuse tied aid credits for commercial purposes and block negotiations to eliminate such abuse. The Secretary should avoid using it to finance only one or two export projects, and should use it only to finance exports that would be reasonably competitive in the absence of predatory export financing practices by other countries. The Secretary shall devise a method for determining the impact of grants from this Fund on employment, and shall give such impact consideration in making those grants.

(c) Definition of tied or partially untied aid credit as official export credit with a positive grant element which is tied to the procurement of goods in the donor country, in the case of tied aid credit, or to the procurement of goods from a restricted number of countries, in the case of partially untied aid credit.

(d) Requires reports to the Congress on the use of the Competitive Tied Aid Fund, such reports to contain information and evidence demonstrating that the Fund has been used for the purposes of this Act.

(e) Authorizes appropriations of $300 million for the Competitive Tied Aid Fund, without fiscal year limitation, effective Oct. 1, 1986.

(f) Requires the Export-Import Bank to make aggressive use of its authority to extend tied aid credits, in accordance with recommendations by the Secretary of the Treasury, pending the availability of the funds authorized by this Act. Provides that, when such funds are available, the Bank shall be reimbursed for the cost of tied aid credits extended pursuant to this Act.

STATEMENTS MADE IN ACCORDANCE WITH HOUSE RULES

In accordance with clauses 2(l)(2)(B), 2(l)(3), and 2(l)(4) of rule XI of the Rules of the House of Representatives, the following statements are made

COMMITTEE VOTE

(Rule XI, Clause 2(l)(2)(B))

H.R. 3667, as amended, was ordered favorably reported by the Full Committee on December 12, 1985, by voice vote with a quorum present.

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OVERSIGHT FINDINGS AND RECOMMENDATIONS

(Rule XI, Clauses 2(l)(3)(A) and (D), and Rule X, Clauses 2(b)(1) and (2) and 4(c)(2))

The Subcommittee on International Finance, Trade and Monetary Policy conducted four days of hearings on this legislation, taking testimony from the Administration, Members of Congress, and witnesses from the private sector. The Committee finds that the authorization of appropriations contained in this bill is necessary to strengthen the hand of the Administration in its attempts to negotiate greater discipline over the use and abuse of "tied aid credits" by other governments, and thereby protect the competitive position of American exporters. Therefore, the Committee recommends that the House pass H.R. 3667, as amended and ordered reported by the Banking Committee.

No formal oversight findings or recommendations have been submitted by the Committee on Government Operations.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SECTION 403 OF THE CONGRESSIONAL BUDGET ACT OF 1974

(Rule XI, Clause 2(l)(3)(C))

The Committee has received the following report from the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1985.

Hon. FERNAND J. ST GERMAIN,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate on H.R. 3667, Competitive Tied Aid Fund Act as ordered reported by the House Committee on Banking, Finance and Urban Affairs on December 12, 1985.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

With best wishes,

Sincerely,

JAMES BLUM,
(FOR RUDOLPH G. PENNER,
Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3667.
2. Bill title: Competitive Tied Aid Fund Act.
3. Bill status: As ordered reported by the House Committee on Banking, Finance and Urban Affairs on December 12, 1985.
4. Bill purpose: The bill authorizes the appropriation of $300 million for a Competitive Tied Aid Fund to be administered by the Secretary of Treasury.
5. Estimated cost to the Federal Government:

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[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990
Authorization amount	0	300	0	0	0
Estimated outlays	0	17	61	76	62

The costs of this bill fall in budget function 150.

Basis for estimate: The estimate assumes enactment of this legislation before September 1986 and subsequent appropriation of the amounts authorized for fiscal year 1987. Outlays are estimated using historical spend-out rates for Eximbank direct loans.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO cost estimate: The preliminary cost estimate dated November 26, 1985 assumed enactment in fiscal year 1986. The bill as ordered reported specifically authorizes the appropriation in fiscal year 1987.

9. Estimate prepared by: Joseph Whitehill.

10. Estimate approved by: C.G. Nuckols (For James L. Blum, Assistant Director for Budget Analysis).

INFLATION IMPACT STATEMENT

(Rule XI, Clause 2(l)(4))

The Committee estimates that this bill will not have any impact on any inflationary trends in the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

EXPORT-IMPORT BANK ACT OF 1945

* * * * * * *

SEC. 15. COMPETITIVE TIED AID FUND.

(a) FINDINGS.—The Congress hereby finds that—

(1) tied and particularly untied aid credits offered by other countries are being used in a predacious manner to distort competitive markets and undercut American exporters;

(2) the predacious use of tied and partially untied aid credits undermines export credit discipline under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development; and

(3) the establishment of a temporary Competitive Tied Aid Fund in the Treasury of the United States to target the export markets of countries which exploit or abuse tied or partially untied aid credits for commercial purposes and which impede progress in negotiating greater discipline over the use of such

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credits will facilitate negotiations to eliminate the use of such credits for commercial purposes and will thereby help protect American exporters from unfair and predacious official export competition.

(b) COMPETITIVE TIED AID FUND.—

(1) ESTABLISHMENT BY SECRETARY OF THE TREASURY.—In order to provide a means for inducing other countries to pursue negotiations on a comprehensive arrangement to restrict the use of tied aid and partially untied aid credits for commercial purposes, the Secretary of the Treasury shall establish a fund in the Treasury of the United States to be known as the "Competitive Tied Aid Fund", consisting of such amounts as may be appropriated to the Fund.

(2) EXPENDITURES FROM FUND.—Amounts in the Fund may be used to supplement the financing of United States exports to foreign markets which are actual or potential export markets for any country which—

(A) engages in predacious official export financing through the use of tied or partially untied aid credits; and

(B) impedes negotiations to eliminate the use of such credits for commercial purposes.

(3) ADDITIONAL REQUIREMENTS.—In carrying out this section, the Secretary—

(A) should avoid using the total amount in the Fund to provide financing for only 1 or 2 export projects;

(B) should seek to use amounts in the Fund to make financing available only for United States exports that would be reasonably competitive in the absence of the predatory export financing practices of the other country; and

(C) shall ensure that amounts in the Fund are used only to assist exportation by persons described in paragraph (1), (2), or (3) of section 328(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2198(c)).

(4) CONSULTATION WITH ADVISORY COUNCIL.—The Secretary shall consult with the National Advisory Council on International Monetary and Financial Policies in—

(A) determining the foreign countries which offer predacious tied or partially untied aid credits and which impede negotiations to restrict their use to legitimate foreign aid; and

(B) reviewing proposed transactions under this section.

(5) POLICY AND PROCEDURE GUIDELINES.—The Secretary shall establish policy and procedure guidelines for the development and implementation of the Fund. In establishing such guidelines, the Secretary shall—

(A) devise a method for determining the number of American jobs which will be created or retained through assistance from the Fund, and give such factor consideration in making assistance available; and

(B) describe the method of publicizing the availability of assistance from the Fund, and the terms and conditions under which such assistance is available to both large and small exporters.

(c) DEFINITIONS.—For purposes of this section—

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(1) TIED AID AND PARTIALLY UNTIED AID CREDIT.—The terms "tied aid credit" and "partially untied aid credit" mean any official credit which has a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development, and which is, in fact or in effect, tied to—

(A) the procurement of goods or services from the donor country, in the case of tied aid credit; or

(B) the procurement of goods or services from a restricted number of countries, in the case of partially untied aid credit.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(3) FUND.—The term "Fund" means the Competitive Tied Aid Fund established pursuant to subsection (b)(1).

(d) REPORT TO CONGRESS.—The Secretary shall transmit to the Congress, on a quarterly basis, a report setting forth the activities carried out under this section. Each such report shall include—

(1) information on applications used by the Secretary for making assistance available under subsection (b)(2);

(2) information on the disposition of such applications;

(3) an identification of the foreign governments whose behavior the Secretary is trying to influence by the use of such assistance, and an explanation of why the assistance involved is deemed likely to influence that behavior;

(4) evidence that clearly demonstrates that assistance under subsection (b)(2) has been used for the purposes of this section;

(5) information on any progress that has been made in negotiations on agreements within the Organization for Economic Cooperation and Development to limit the use of tied aid credits and partially untied aid credits;

(6) information on the extent to which tied aid credits and partially untied aid credits are being used at the time of such report by major trading countries within such Organization, the terms of such any credits, and the market sectors with respect to which such credits are being used; and

(7) information on the extent to which assistance under this section has been effective—

(A) in discouraging the use of tied aid credits and partially untied aid credits for commercial purposes by other countries; and

(B) in helping to protect United States exporters from unfair and predacious official export competition.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is hereby authorized to be appropriated to the Fund for the fiscal year beginning on October 1, 1986, $300,000,000. Except as provided in paragraph (2), such sums shall remain available until expended.

(2) RESCISSION AUTHORITY.—

(A) DETERMINATION BY PRESIDENT.—If the President determines that any amount appropriated to the Fund is not required to achieve the purpose of the Fund, the President shall transmit a special message of such determination to

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the Congress in the manner provided in section 1012(a) of the Impoundment Control Act of 1974.

(B) SPECIAL MESSAGE.—Any message under this paragraph shall be treated as a special message under such section for purposes of such Act.

(f) EXPORT-IMPORT BANK.—

(1) IMMEDIATE IMPLEMENTATION.—Until such time as the funds authorized to be appropriated under subsection (e) become available for expenditure, the Bank shall make aggressive use of the Bank's authority to offer tied aid credits, in accordance with any recommendation of the Secretary of the Treasury as to how such credits could most effectively and efficiently promote the purposes of this section.

(2) SUBSEQUENT REIMBURSEMENT.—The Bank shall be reimbursed for the cost of any tied aid credits the Bank authorizes pursuant to this subsection from the appropriated funds authorized by this section, when such funds become available.

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ADDITIONAL COMMENTS OF HON. ROBERT GARCIA

While the Competitive Tied Aid Act (H.R. 3667) is a worthwhile piece of legislation aimed at correcting some of the inequalities faced by American firms in competition with foreign firms for contracts, I have some reservations about where the money for this program is coming from.

The House has recently passed the Gramm Rudman balanced budget proposal, which requires across the board reductions in domestic and defense programs. This legislation requires that the Congress and the President make the required reductions to meet with deficit targets, and implements a system of automatic reductions if Congress and the President fail to meet these targets.

The enactment of Gramm Rudman once again raises the question that, to my mind, has never been satisfactorily answered by the Administration. That question is: Where is the money coming from? The Director of the Office of Management and Budget has informed us that the President intends to include the $300 million authorized for this program in the 1987 budget. Now that Gramm Rudman is the law, the question again emerges: Where is the money coming from? If we have passed this legislation with the thought in mind that we would be able to have more control over the President's request for 1987, in terms of what programs will be cut to fund this program, we may have given up that control in passing the balanced budget proposal.

Although the Competitive Tied Aid Act is a good idea for a limited time, and meant only to serve as a bargaining chip to bring some of our foreign competitors to the negotiating table to discuss the elimination of this practice, there are problems with the presumption that this is exactly what will happen. $300 million is a substantial amount of money, and will support up to $1 billion in mixed credits, yet, if France for example, is spending more than that per year, how much of a "push" toward the bargaining table is this $300 million going to represent? And France is not the only country using mixed credits, so if we are not spending as much as just one of the countries we are competing with, how can we expect that the four, five or six major users of this form financing will be made sufficiently wary that they will want to negotiate an agreement?

Another concern I have is that these mixed credits will be used mostly to the advantage of a few of the largest American companies. This problem was addressed during Committee consideration, however, the Director of OMB has stated that these credits will be used to help large companies in the short run, but will help all companies in the long run by forcing countries using tied credits to come to the bargaining table with the United States. This seems to mean that the Administration is aiming this aid at the major cor-

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porations, and hoping that any ripples created by this proposal will carry the others along.

I am concerned with the unfair advantage that countries using mixed credits are giving their corporations, but I am equally concerned with the possibility that this money will be taken from domestic programs that have already been severely reduced.

ROBERT GARCIA.

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SEPARATE VIEWS OF REPRESENTATIVE THOMAS J. RIDGE

We must respond to the realities of the international marketplace and provide for a mixed or tied aid credit program. I strongly supported the idea two years ago when Congress created a defensive mixed credit program under the Export-Import Bank and the Agency for International Development (AID). This program still exists but unfortunately has yet to be funded either by Congress or the administration.

In September of this year, the administration changed its view of a mixed credit program. However, rather than fund the existing program, it proposed the creation of a new offensive program to be administered by the Treasury Department. This is especially perplexing as the Treasury Department has been the most consistent critic of a mixed credit program in the administration. The Treasury Department is on record as stating that mixed credits are wasteful, costly and futile, and that it would be a waste of time to even attempt to counter foreign offers. None of the statements I have heard or read from Treasury with respect to the new offensive program serve to mitigate my doubts about the commitment at Treasury to making the program work. If anything, their responses have increased my concerns about their lack of commitment.

As much as I personally respect the present Secretary of the Treasury, I find it distressing that H.R. 3667, the "Competitive Tied Aid Fund Act," places the mixed credit program in the Treasury Department. It has repeatedly shown complete contempt for similar activities. Efforts to change the current structure of the bill often elicited responses from Treasury that were less than reassuring about their willingness to use and to promote the program. Throughout the process of committee markup, Treasury kept asking that Congress trust them to administer the program and to make it work. If Congress does in fact pass H.R. 3667 with the mixed credit program in the Treasury Department, Congress must provide strict oversight to ensure that Treasury does in fact use this program aggressively to bring about an end to foreign mixed credit programs.

One questions the potential effectiveness of the offensive program because of the limited resources committed to it. The fund is set at a $300 million level. This small fund is then supposed to convince other countries—primarily France, Belgium, and Italy under the program outlined by the administration—that mixed credits are too expensive. This year, the Organization for Economic Cooperation and Development (OECD) estimates that world wide export subsidies will top the $6 billion mark and a substantial amount of that will be in mixed credits. Recently Britain increased its mixed credit program to $1 billion per year, Canada used about $1.3 billion, and there is concern about a reported fund that Japan may use for mixed credit activities.

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None of us disagrees that there is a need to bring about an end to existing mixed credit programs. Foreign countries support between 20 and 40 percent of their exports while we support less than three percent of ours. The importance which other countries place on export trade was demonstrated recently when Japan announced a $500 million program to subsidize their exports that are being hurt due to the appreciation of the yen. The Coalition for Employment through Exports (CEE) has estimated that U.S. firms lost $7 billion in sales in a nine month period during 1983 and 1984 due to mixed credit financing by other countries. Our country is losing market shares in the international marketplace while other countries target critical sectors of our economy for mixed credit competition while this Congress and the administration remain unable or unwilling to respond.

If in fact we are truly concerned about the loss of export trade, the existing defensive mixed credit program would be a much more effective tool. It seems Treasury and the administration are primarily concerned with the "need for negotiations." While this is an important aspect of the mixed credit problem, it is not the only answer to it. If the administration is serious about taking actions to assist exporters and to improve the trade deficit, there should be some effort made to fund the existing defensive mixed credit program as well. This is the only program that will aid domestic exporters and domestic jobs while these troublesome and difficult negotiations occur.

Treasury has reiterated that the program being established by H.R. 3667 will only serve as a bargaining tool and will not be used to aid U.S. exporters. This is a very serious mistake. However, there is little awareness of exactly what mixed credits are and how they work. Several members of the committee believe that passage of this bill will support U.S. export activity. This simply is not true. In the long-run, if negotiations to eliminate mixed credits are successful, U.S. exporters may benefit—if there are any exporters left. However, in the short-run, when we are worried about an ever increasing trade deficit, this program will do nothing to promote exports.

In recent years Treasury has maintained that the elimination of mixed credits is one of its highest priorities in negotiations with the OECD countries. I have been advised that observers at the last OECD negotiations found the Treasury negotiating staff to have very little working knowledge of mixed credits or that they were a priority negotiating item.

It should also be noted that there was controversy over funding for this program. To solve the problem it was decided that funding would begin in Fiscal Year 1987. The mixed credit problem needs to be addressed now, not over a year from now. If we have to wait until FY 1987 to deal with the problem, we are sacrificing additional export trade and economic growth to foreign competition. This bill sends the wrong signal to the OECD countries—we tell them that it is fine to keep using mixed credits for another year, go ahead and continue taking away U.S. jobs and U.S. industry, and next year sometime negotiations can begin on this issue. There is a need to address the mixed credit problem now, not next year.

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In the face of strong export competition, the U.S. cannot afford to allow the use of mixed credits to continue. It is incumbent on the federal government to take a strong stand in defense of domestic jobs, domestic industry, and future economic growth. Instead, the Banking Committee has reported out a bill which fails on all three of these goals. It will not help domestic workers, it will not help domestic industries, and sadly, it will not promote economic growth.

For the reasons that I have outlined above, it is difficult for me to support the bill in its present form. The lack of any clear response to the realities of mixed credit finance and the importance of a defensive program while negotiations are conducted leave serious concerns about both the commitment of the administration to the offensive mixed credit program and the ability to use it to bring about successful negotiations with OECD countries. It would seem far more likely that the French and other major users of mixed credits will look at the unfunded defensive program and at the offensive program which awaits funding and continue their current activities.

I commend the other members of the committee for beginning the effort to address this important subject. However, H.R. 3667 fails to create the tools needed to combat mixed credits and will most likely not succeed in bringing about an end to the mixed credit problem facing our exporters.

The sense of urgency that I feel concerning the escalating use of mixed credits by foreign countries and the accompanying loss of markets and jobs is obviously not felt by Treasury or many of my fellow committee members. Their acquiescence to postpone funding until FY 1987 underscores this difference of opinion.

TOM RIDGE.

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ADDITIONAL VIEWS OF HON. TOBY ROTH

I strongly support the legislation reported by the Committee. This legislation would provide leverage for the Secretary of the Treasury in negotiations with other governments to restrict the predatory use of tied aid or partially untied aid for commercial purposes. H.R. 3667 implements an important part of the Administration's trade enhancement package.

During the Committee's deliberations on H.R. 3667, it accepted an amendment I offered to add three criteria to be taken into account in dispersing mixed credits. By establishing firm criteria we ensure that funds authorized under this bill will be well-spent and used for competitive projects, and that mixed credits will go only to U.S.-owned firms.

The Committee, however, refused to consider other amendments I had hoped to offer because of questions of germaneness. Since the legislation has both Banking Committee and Foreign Affairs Committee implications, I hope it will be considered on the House floor under procedures which will allow the consideration of a wide range of amendments.

In particular, two additional amendments would improve the legislation.

First, H.R. 3667 should contain an additional "stick" for use by the Treasury Department. Wishful thinking that an offensive mixed credit package, coupled with criteria defining its use, will not alone achieve positive results. Congress should mandate that the Administration shall initiate a Section 301 unfair trade case if negotiations fail to yield positive results within the next two years. This action could be taken against those countries which have been intransigent in the negotiating process and have escalated the mixed credit trade war.

The Trade Act of 1974 grants broad authority to the President under Sec. 301 to respond to unjustifiable, unreasonable or discriminatory actions against U.S. commerce. This Presidential power should be used in conjunction with other weapons at the disposal of the Administration in order to move negotiations to a successful conclusion.

Second, the legislation should enable the U.S. to respond as fully as possible to all who make excessive use of mixed credits. H.R. 3667 properly targets the major perpetrators of abuses, but it should also forcefully discourage at an early stage the proliferation of new mixed credit programs by other countries.

Testimony heard by the Foreign Affairs Committee indicated that the use of mixed credits now emanates from such countries as Argentina and Brazil. H.R. 3667 should be amended to include a provision directing the Secretary of the Treasury to instruct the U.S. Executive Director of the International Monetary Fund to oppose any new loans or the rescheduling of loans to any country

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under an IMF adjustment program if that country engages in the practice of offering mixed credits to its exporters. It is incomprehensible that the U.S. should be extending billions of dollars in new loans or rescheduling old ones to heavily indebted countries if such countries are using the funds to subsidize heavily their exports—most often at our expense.

H.R. 3667 as reported by the Banking Committee is good legislation which will help protect American exporters from unfair trade practices by foreign competitors. It can, however, be improved, and I hope members will be given reasonable latitude to amend the legislation on the floor of the House.

TOBY ROTH.

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